Early Termination Fees and Truth-in-Billing

Presentation to

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Consumer and Governmental Affairs Bureau

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EARLY TERMINATION FEES ARE RATES

- ETFs are an integral part of the overall rate level and rate structure in post-paid wireless contracts.
- Any state court order invalidating, modifying, or conditioning the use or enforcement of ETFs results in a prohibited rate regulation preempted by Section 332(c)(3)(A).
- Consumers have a choice of rate plans, and many choose service agreements that include up-front discounts on equipment and service activation fees, lower monthly rates as well as an ETF, precisely because they recognize that such term agreements best serve their economic interests. Consumers also can, and do, choose pre-paid or pay-as-you-go plans that do not contain ETFs. As of 6/30/05, there were approximately 15 million wireless prepaid customers.
- Lawsuits challenging the use or validity of ETFs would harm the vast majority of wireless consumers by eliminating a desirable rate structure in order to "protect" a small percentage of subscribers who wish to terminate service early.

CONSUMERS BENEFIT FROM TERM CONTRACTS AND EARLY TERMINATION FEES

- Economic analysis indicates that ETFs can intensify competition and create additional choice.
- When long-term contracts are enforceable, service providers are able to amortize customer acquisition and account set-up costs over a longer period of time.
  - Under a long-term carrier-customer relationship, service providers have greater incentives to compete for customer’s patronage and also are willing to subsidize the purchase of handsets.
- Regulations that undermine the establishment of long-term economic relationships between wireless carriers and their customers may lead to offerings of less valuable services and smaller discounts, thereby harming carriers and customers alike.

ADDITIONAL REGULATION OF CMRS BILLING AND DISCLOSURE PRACTICES IS UNNECESSARY

- Nothing in Section 332(c) prevents the FCC from preempting state laws that conflict with federal policies favoring robust competition in the CMRS market.
- CTIA endorses the Commission’s overall policy of ensuring that wireless consumers be provided with clear and non-misleading disclosures in customer billing statements but stresses that additional regulatory intervention is unnecessary.
- If the Commission chooses to adopt any rules that would govern the contents of wireless carriers’ bills, the Commission should adopt a national framework for rules using the *CTIA Consumer Code for Wireless Service* as a model to clarify how wireless carriers communicate billing information to their customers.

CTIA'S TRUTH-IN-BILLING RECOMMENDATIONS

CTIA The Wireless Association®

- The Commission should reject proposals to adopt a definition for "mandated" and "non-mandated" charges that treat as mandated only those charges that a carrier is *required* to collect directly from customers, and remit to federal, state or local governments. Such a restrictive definition is unnecessary to ensure that carriers' bills are clear and not misleading.
- Requiring carriers to use standardized labeling and terminology in presenting certain categories of charges, along the lines proposed by the state Attorneys General and others, is not justified by the record and would violate carriers' First Amendment rights.
- Carriers should not be prohibited from combining multiple federal line item charges on their customer billing statements.
- NASUCA's request to adopt unrealistic point-of-sale disclosure requirements should be denied. Given carriers' inability to predict where their prospective customers will in fact use their wireless phones, such requirements are unfair to carriers and unjustified by the record in this proceeding.